UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,576	01/26/2004	Stephane Coulombe	944-003.214	8150

4955   7590   03/24/2010
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ART UNIT	PAPER NUMBER
2455	

MAIL DATE	DELIVERY MODE
03/24/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _19 January 2010_.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-21,24,27,30,33,36-38,41,42 and 48_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-21,24,27,30,33,36-38,41,42 and 48_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
      Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
      Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.	This action is in response to the amendment filed January 19, 2010.

2.	Claims 1-21, 24, 27, 30, 33, 36-38, 41, 42, and 48 have been examined and are

pending with this action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.	Claims 1-21, 24, 27, 30, 33, 36-38, 41, 42, and 48 are rejected under 35 U.S.C.

103(a) as being unpatentable over Mukherjee et al. (US 7,133,925) in view of Maes (US

6,970,935).

INDEPENDENT:

As per **claim 1**, Mukherjee teaches a method by which a multimedia data is

transcoded en route from a sending terminal via a messaging server to a receiving

terminal, the method comprising:

a user agent of the sending terminal inserting, into the multimedia data, media

characteristics of the multimedia data sufficient in detail to enable determining whether

the multimedia data should be transcoded to accommodate multimedia capabilities of

the receiving terminal (see col.3, lines 42-52: "The media source provides scalable

encoded media data in a format including first and second portion... "); and

the messaging server reading the media characteristics of the multimedia data

and deciding whether the multimedia data should be transcoded based only on the

inserted media characteristics of the multimedia data and actual or assumed multimedia

capabilities of the receiving terminal (see col.3, lines 56-62: "The transcoder transcodes

the formatted original scalable encoded media data prior to delivery to the media

destination to generate a scaled version of the formatted original scalable encoded

media data, based on matching the scalability attributes and the receiving attributes and

using the data structure information").

Mukherjee does not explicitly teach wherein the media characteristics of the

multimedia data comprises at least one of the following: a number of frames, or a

sampling rate of audio content, wherein the multimedia data has a header portion and a

body portion, and the media characteristics of the multimedia data are inserted into a

field in the header portion of the multimedia data.

Maes teaches wherein the media characteristics of the multimedia data

comprises at least one of the following: a number of frames, or a sampling rate of audio

content, wherein the multimedia data has a header portion and a body portion, and the

media characteristics of the multimedia data are inserted into a field in the header

portion of the multimedia data (see col.16, lines 3-11: "a File Header which, in general,

defines information regarding... the size of the file... sampling frequency..."; and col.17,

lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed conversational interactions (see col.15, lines 60-65).

Mukherjee does not explicitly teach that the multimedia data is a multimedia data.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps involved in determining whether to transcode the data will be performed regardless of the data. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement any type of message (i.e. video, audio, multimedia and so on) because such data does not functionally relate to the steps in the

method claimed and because the subjective interpretation of the data does not

patentably distinguish the claimed invention.

As per **claim 11**, Mukherjee teaches a terminal comprising a processor

configured to:

determine media characteristics of a multimedia data sufficient in detail to enable

a messaging terminal to determine whether the multimedia data should be transcoded

based only on a comparison of actual or assumed multimedia capabilities of a receiving

terminal and the inserted media characteristics (see col.3, lines 56-62: "The transcoder

transcodes the formatted original scalable encoded media data prior to delivery to the

media destination to generate a scaled version of the formatted original scalable

encoded media data, based on matching the scalability attributes and the receiving

attributes and using the data structure information"); and

insert the media characteristics of the multimedia data into the multimedia data

(see col.3, lines 42-52: "The media source provides scalable encoded media data in a

format including first and second portion... ").

Mukherjee does not explicitly teach wherein the media characteristics of the

multimedia data comprises at least one of the following: a number of frames, or a

sampling rate of audio content, wherein the multimedia data has a header portion and a

body portion, and the media characteristics of the multimedia data are inserted into a

field in the header portion of the multimedia data.

Maes teaches wherein the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see col.16, lines 3-11: "a File Header which, in general, defines information regarding... the size of the file... sampling frequency..."; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed conversational interactions (see col.15, lines 60-65).

Mukherjee does not explicitly teach that the multimedia data is a multimedia data.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps involved in determining whether to transcode the data will be performed regardless of the data. Thus this descriptive material will not distinguish the claimed invention from the prior art

in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404

(Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to implement any type of message (i.e. video, audio,

multimedia and so on) because such data does not functionally relate to the steps in the

method claimed and because the subjective interpretation of the data does not

patentably distinguish the claimed invention.

As per **claim 12**, Mukherjee teaches a messaging server comprising a processor

configured to:

obtain media characteristics of a multimedia data that are inserted into the

multimedia data intended for a receiving terminal (see col.3, lines 42-52: "The media

source provides scalable encoded media data in a format including first and second

portion... "); and

decide whether the multimedia data should be transcoded based only on

comparing the media characteristics of the multimedia data with actual or assumed

multimedia capabilities of the receiving terminal (see col.3, lines 56-62: "The transcoder

transcodes the formatted original scalable encoded media data prior to delivery to the

media destination to generate a scaled version of the formatted original scalable

encoded media data, based on matching the scalability attributes and the receiving

attributes and using the data structure information").

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data.

Maes teaches wherein the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see col.16, lines 3-11: "a File Header which, in general, defines information regarding... the size of the file... sampling frequency..."; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed conversational interactions (see col.15, lines 60-65).

Mukherjee does not explicitly teach that the multimedia data is a multimedia data.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps involved in determining whether to transcode the data will be performed regardless of the data. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement any type of message (i.e. video, audio, multimedia and so on) because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 13**, Mukherjee teaches a system, comprising a terminal and a messaging server wherein:

the sending terminal is configured to insert, into a multimedia data for a receiving terminal, media characteristics of the multimedia data sufficient in detail to enable determining whether the multimedia data should be transcoded to accommodate multimedia capabilities of the receiving terminal (see col.3, lines 42-52: "The media source provides scalable encoded media data in a format including first and second portion... "); and

the messaging server is configured to read the media characteristics of the multimedia data and decide whether the multimedia data should be transcoded based only on a comparison of media characteristics and actual or assumed multimedia capabilities of the receiving terminal (see col.3, lines 56-62: "The transcoder transcodes the formatted original scalable encoded media data prior to delivery to the media destination to generate a scaled version of the formatted original scalable encoded media data, based on matching the scalability attributes and the receiving attributes and using the data structure information").

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data.

Maes teaches wherein the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see col.16, lines 3-11: "a File Header which, in general, defines information regarding... the size of the file... sampling frequency..."; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed conversational interactions (see col.15, lines 60-65).

Mukherjee does not explicitly teach that the multimedia data is a multimedia data.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps involved in determining whether to transcode the data will be performed regardless of the data. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement any type of message (i.e. video, audio, multimedia and so on) because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 21**, Mukherjee teaches a method for use by a terminal comprising:

determining media characteristics for media components of a multimedia data

intended for a receiving terminal, wherein the media characteristics of the multimedia

data are sufficient in detail to enable determining whether the multimedia data should be

transcoded to accommodate multimedia capabilities of the receiving terminal (see col.3,

lines 56-62: "The transcoder transcodes the formatted original scalable encoded media

data prior to delivery to the media destination to generate a scaled version of the

formatted original scalable encoded media data, based on matching the scalability

attributes and the receiving attributes and using the data structure information"); and

inserting the media characteristics of the multimedia data into the multimedia

data (see col.3, lines 42-52: "The media source provides scalable encoded media data

in a format including first and second portion... ").

Mukherjee does not explicitly teach wherein the media characteristics of the

multimedia data comprises at least one of the following: a number of frames, or a

sampling rate of audio content, wherein the multimedia data has a header portion and a

body portion, and the media characteristics of the multimedia data are inserted into a

field in the header portion of the multimedia data.

Maes teaches wherein the media characteristics of the multimedia data

comprises at least one of the following: a number of frames, or a sampling rate of audio

content, wherein the multimedia data has a header portion and a body portion, and the

media characteristics of the multimedia data are inserted into a field in the header

portion of the multimedia data (see col.16, lines 3-11: "a File Header which, in general,

defines information regarding… the size of the file… sampling frequency…"; and col.17,

lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of

frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to modify the system of Mukherjee in view of Maes so that the

media characteristics of the multimedia data comprises at least one of the following: a

number of frames, or a sampling rate of audio content, wherein the multimedia data has

a header portion and a body portion, and the media characteristics of the multimedia

data are inserted into a field in the header portion of the multimedia data. One would be

motivated to do so because Maes teaches that such implementation which is generally

known as a RECOVC file format that allows for real-time distributed conversational

interactions (see col.15, lines 60-65).

Mukherjee does not explicitly teach that the multimedia data is a multimedia data.

However these differences are only found in the nonfunctional descriptive

material and are not functionally involved in the steps recited. The steps involved in

determining whether to transcode the data will be performed regardless of the data.

Thus this descriptive material will not distinguish the claimed invention from the prior art

in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404

(Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to implement any type of message (i.e. video, audio,

multimedia and so on) because such data does not functionally relate to the steps in the

method claimed and because the subjective interpretation of the data does not

patentably distinguish the claimed invention.

As per **claim 24**, Mukherjee teaches a method for use by a messaging server

comprising:

obtaining media characteristics of the multimedia data that are inserted into the

multimedia data intended for a receiving terminal (see col.3, lines 42-52: "The media

source provides scalable encoded media data in a format including first and second

portion... "); and

deciding whether the multimedia data should be transcoded based only on a

comparison of the inserted media characteristics and actual or assumed multimedia

capabilities of the receiving terminal (see col.3, lines 56-62: "The transcoder transcodes

the formatted original scalable encoded media data prior to delivery to the media

destination to generate a scaled version of the formatted original scalable encoded

media data, based on matching the scalability attributes and the receiving attributes and

using the data structure information").

Mukherjee does not explicitly teach wherein the media characteristics of the

multimedia data comprises at least one of the following: a number of frames, or a

sampling rate of audio content, wherein the multimedia data has a header portion and a

body portion, and the media characteristics of the multimedia data are inserted into a

field in the header portion of the multimedia data.

Maes teaches wherein the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see col.16, lines 3-11: "a File Header which, in general, defines information regarding... the size of the file... sampling frequency..."; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed conversational interactions (see col.15, lines 60-65).

Mukherjee does not explicitly teach that the multimedia data is a multimedia data.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps involved in determining whether to transcode the data will be performed regardless of the data. Thus this descriptive material will not distinguish the claimed invention from the prior art

in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404

(Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to implement any type of message (i.e. video, audio,

multimedia and so on) because such data does not functionally relate to the steps in the

method claimed and because the subjective interpretation of the data does not

patentably distinguish the claimed invention.

As per **claim 27**, Mukherjee teaches an apparatus for transmitting a multimedia

data, the apparatus comprising a processor configured to:

determine media characteristics for a media component of the multimedia data

(see col.3, lines 4-15); and

insert the media characteristics of the multimedia data into the multimedia data

(see col.3, lines 42-52: "The media source provides scalable encoded media data in a

format including first and second portion... ").

Mukherjee does not explicitly teach wherein the media characteristics of the

multimedia data comprises at least one of the following: a number of frames, or a

sampling rate of audio content, wherein the multimedia data has a header portion and a

body portion, and the media characteristics of the multimedia data are inserted into a

field in the header portion of the multimedia data.

Maes teaches wherein the media characteristics of the multimedia data

comprises at least one of the following: a number of frames, or a sampling rate of audio

content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see col.16, lines 3-11: "a File Header which, in general, defines information regarding… the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed conversational interactions (see col.15, lines 60-65).

Mukherjee does not explicitly teach that the multimedia data is a multimedia data.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps involved in determining whether to transcode the data will be performed regardless of the data. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement any type of message (i.e. video, audio, multimedia and so on) because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 30**, Mukherjee teaches a method for transmitting a multimedia data, the method comprising:

determining media characteristics for a media component of the multimedia data (see col.3, lines 4-15); and

inserting the media characteristics of the multimedia data in the multimedia data (see col.3, lines 42-52: "The media source provides scalable encoded media data in a format including first and second portion... ").

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data.

Maes teaches wherein the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header

portion of the multimedia data (see col.16, lines 3-11: "a File Header which, in general, defines information regarding… the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed conversational interactions (see col.15, lines 60-65).

Mukherjee does not explicitly teach that the multimedia data is a multimedia data.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps involved in determining whether to transcode the data will be performed regardless of the data. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement any type of message (i.e. video, audio,

multimedia and so on) because such data does not functionally relate to the steps in the

method claimed and because the subjective interpretation of the data does not

patentably distinguish the claimed invention.

As per **claim 33**, Mukherjee teaches an apparatus for processing a multimedia

data, the apparatus comprising a processor configured to:

receive media characteristics of a media component of the multimedia data in a

field of the multimedia data (see col.3, lines 42-52: "The media source provides scalable

encoded media data in a format including first and second portion... "); and

determine whether the multimedia data should be transcoded based at least in

part on a comparison of the received media characteristics of the multimedia data and

actual or assumed multimedia capabilities of a receiving terminal (see col.3, lines 56-62:

"The transcoder transcodes the formatted original scalable encoded media data prior to

delivery to the media destination to generate a scaled version of the formatted original

scalable encoded media data, based on matching the scalability attributes and the

receiving attributes and using the data structure information").

Mukherjee does not explicitly teach wherein the media characteristics of the

multimedia data comprises at least one of the following: a number of frames, or a

sampling rate of audio content, wherein the multimedia data has a header portion and a

body portion, and the media characteristics of the multimedia data are inserted into a

field in the header portion of the multimedia data.

Maes teaches wherein the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see col.16, lines 3-11: "a File Header which, in general, defines information regarding… the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprises at least one of the following: a number of frames, or a sampling rate of audio content, wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed conversational interactions (see col.15, lines 60-65).

Mukherjee does not explicitly teach that the multimedia data is a multimedia data.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps involved in determining whether to transcode the data will be performed regardless of the data. Thus this descriptive material will not distinguish the claimed invention from the prior art

in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404

(Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to implement any type of message (i.e. video, audio,

multimedia and so on) because such data does not functionally relate to the steps in the

method claimed and because the subjective interpretation of the data does not

patentably distinguish the claimed invention.

As per **claim 38**, Mukherjee teaches a method for processing a multimedia data,

the method comprising:

receiving media characteristics of a media component of the multimedia data in a

field of the multimedia data (see col.3, lines 42-52: "The media source provides scalable

encoded media data in a format including first and second portion... "); and

determining whether the multimedia data should be transcoded based at least in

part on a comparison of the received media characteristics of the multimedia data and

actual or assumed multimedia capabilities of a receiving terminal (see col.3, lines 56-62:

"The transcoder transcodes the formatted original scalable encoded media data prior to

delivery to the media destination to generate a scaled version of the formatted original

scalable encoded media data, based on matching the scalability attributes and the

receiving attributes and using the data structure information").

Mukherjee does not explicitly teach wherein the media characteristics of the

multimedia data comprises at least one of the following: a number of frames, or a

sampling rate of audio content, wherein the multimedia data has a header portion and a

body portion, and the media characteristics of the multimedia data are inserted into a

field in the header portion of the multimedia data.

Maes teaches wherein the media characteristics of the multimedia data

comprises at least one of the following: a number of frames, or a sampling rate of audio

content, wherein the multimedia data has a header portion and a body portion, and the

media characteristics of the multimedia data are inserted into a field in the header

portion of the multimedia data (see col.16, lines 3-11: "a File Header which, in general,

defines information regarding... the size of the file... sampling frequency..."; and col.17,

lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of

frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to modify the system of Mukherjee in view of Maes so that the

media characteristics of the multimedia data comprises at least one of the following: a

number of frames, or a sampling rate of audio content, wherein the multimedia data has

a header portion and a body portion, and the media characteristics of the multimedia

data are inserted into a field in the header portion of the multimedia data. One would be

motivated to do so because Maes teaches that such implementation which is generally

known as a RECOVC file format that allows for real-time distributed conversational

interactions (see col.15, lines 60-65).

Mukherjee does not explicitly teach that the multimedia data is a multimedia data.

However these differences are only found in the nonfunctional descriptive

material and are not functionally involved in the steps recited. The steps involved in

determining whether to transcode the data will be performed regardless of the data.

Thus this descriptive material will not distinguish the claimed invention from the prior art

in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404

(Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to implement any type of message (i.e. video, audio,

multimedia and so on) because such data does not functionally relate to the steps in the

method claimed and because the subjective interpretation of the data does not

patentably distinguish the claimed invention.

As per **claim 48**, Mukherjee teaches an apparatus comprising:

means for receiving media characteristics of a multimedia data that are inserted

in a filed of the multimedia data (see col.3, lines 42-52: "The media source provides

scalable encoded media data in a format including first and second portion... "); and

means for determining whether the multimedia data should be transcoded based

on a comparison of the media characteristics of the multimedia data and actual or

assumed multimedia capabilities of a receiving terminal (see col.3, lines 56-62: "The

transcoder transcodes the formatted original scalable encoded media data prior to

delivery to the media destination to generate a scaled version of the formatted original

scalable encoded media data, based on matching the scalability attributes and the

receiving attributes and using the data structure information").

Mukherjee does not explicitly teach wherein the media characteristics of the

multimedia data comprises at least one of the following: a number of frames, or a

sampling rate of audio content, wherein the multimedia data has a header portion and a

body portion, and the media characteristics of the multimedia data are inserted into a

field in the header portion of the multimedia data.

Maes teaches wherein the media characteristics of the multimedia data

comprises at least one of the following: a number of frames, or a sampling rate of audio

content, wherein the multimedia data has a header portion and a body portion, and the

media characteristics of the multimedia data are inserted into a field in the header

portion of the multimedia data (see col.16, lines 3-11: "a File Header which, in general,

defines information regarding... the size of the file... sampling frequency..."; and col.17,

lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of

frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to modify the system of Mukherjee in view of Maes so that the

media characteristics of the multimedia data comprises at least one of the following: a

number of frames, or a sampling rate of audio content, wherein the multimedia data has

a header portion and a body portion, and the media characteristics of the multimedia

data are inserted into a field in the header portion of the multimedia data. One would be

motivated to do so because Maes teaches that such implementation which is generally

known as a RECOVC file format that allows for real-time distributed conversational

interactions (see col.15, lines 60-65).

Mukherjee does not explicitly teach that the multimedia data is a multimedia data.

However these differences are only found in the nonfunctional descriptive

material and are not functionally involved in the steps recited. The steps involved in

determining whether to transcode the data will be performed regardless of the data.

Thus this descriptive material will not distinguish the claimed invention from the prior art

in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404

(Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to implement any type of message (i.e. video, audio,

multimedia and so on) because such data does not functionally relate to the steps in the

method claimed and because the subjective interpretation of the data does not

patentably distinguish the claimed invention.

DEPENDENT:

As per **claim 2**, which depends on claim 1, Mukherjee further teaches wherein

the messaging server sends the multimedia message to a transcoding server if

transcoding is needed, and the transcoding server uses the inserted media

characteristics of the multimedia message to itself decide if transcoding is needed (see

Fig.9).

As per **claim 3**, which depends on claim 1, Mukherjee further teaches wherein the messaging server sends the multimedia message to a transcoding server if transcoding is needed, and the transcoding server uses the inserted media characteristics of the multimedia message to itself decide which parts of the multimedia message need transcoding (see Fig.1).

As per **claim 4**, which depends on claim 1, Mukherjee further teaches wherein the messaging server determines, from the inserted media characteristics of the multimedia message, which parts of the multimedia message need transcoding and sends the multimedia message to a transcoding server if transcoding is needed for any message part, and includes in the multimedia message an indication of which parts of the multimedia message need transcoding (see Fig.9 and col.14, lines 11-21).

As per **claim 5**, which depends on claim 1, Mukherjee further teaches wherein the messaging server determines, from the inserted media characteristics of the multimedia message, which parts of the multimedia message need transcoding and sends only those message parts requiring transcoding to a transcoding server (see Fig.9 and col.14, lines 11-21).

As per **claim 6**, which depends on claim 1, Mukherjee further teaches wherein the transcoding is performed based on a comparison the inserted media characteristics and the actual or assumed multimedia capabilities of the receiving terminal, without performing an analysis of the multimedia message to determine whether transcoding is needed (see col.3, lines 56-62 and col.5, line 63-col.6, line 2).

As per **claim 7**, which depends on claim 6, Mukherjee further teaches wherein the transcoding is performed without also performing even an analysis to determine which parts of the multimedia message need to be transcoded (see col.5, line 63-col.6, line 2).

As per **claim 8**, which depends on claim 1, Mukherjee further teaches wherein the user agent inserts the media characteristics of the multimedia message into the field in the header of the multimedia message (see Fig.3A and Fig.3B).

As per **claim 9**, which depends on claim 1, Mukherjee further teaches wherein the user agent inserts the media characteristics of the multimedia message into the header field in the body of the multimedia message (see Fig.3A and Fig.3B).

As per **claim 10**, which depends on claim 1, Mukherjee further teaches wherein the media characteristics of the multimedia message include image and video resolution, or number of frames and frame rate of visual content, or sampling rate of audio content (see col.5, lines 35-50).

As per **claim 14**, which depends on claim 13, Mukherjee further teaches wherein the messaging server is further configured to transcode the multimedia message based on the inserted media characteristics and the actual or assumed multimedia capabilities of the receiving terminal, without performing an analysis of the multimedia message to determine media characteristics of the multimedia message relevant to deciding whether transcoding is needed (see col.3, lines 56-62 and col.5, line 63-col.6, line 2).

As per **claim 15**, which depends on claim 13, Mukherjee further teaches wherein the messaging server is further configured to send the multimedia message to a

transcoding server if transcoding is needed, and the transcoding server is configured to

use the inserted media characteristics to decide if transcoding is needed (see col.3,

lines 15-22).

As per **claim 16**, which depends on claim 13, Mukherjee further teaches wherein

the messaging server is further configured to send the multimedia message to a

transcoding server if transcoding is needed, and the transcoding server is configured to

use the inserted media characteristics to decide which parts of the message need

transcoding (see Fig.9 and col.14, lines 11-21).

As per **claim 17**, which depends on claim 13, Mukherjee further teaches wherein

the messaging server is further configured to determine, from the inserted media

characteristics, which parts of the multimedia message need transcoding and to send

the multimedia message to a transcoding server if transcoding is needed for any

message part, and to include in the multimedia message an indication of which parts of

the multimedia message need transcoding (see Fig.9 and col.14, lines 11-21).

As per **claim 18**, which depends on claim 13, Mukherjee teaches of further

comprising a transcoding engine for transcoding the multimedia message, wherein the

transcoding is performed based on a comparison of the inserted media characteristics

and the actual or assumed multimedia capabilities of the receiving terminal, without

performing an analysis of the multimedia message to determine whether transcoding is

needed (see col.3, lines 56-62 and col.5, line 63-col.6, line 2).

As per **claim 19**, Mukherjee further teaches a computer program product

comprising: a computer readable storage structure embodying computer program code

thereon for execution by a computer processor in a sending terminal, wherein said

computer program code includes instructions for performing the method of claim 21

(see col.14, lines 22-25).

As per **claim 20**, Mukherjee further teaches a computer program product

comprising: a computer readable storage structure embodying computer program code

thereon for execution by a computer processor in a messaging server, wherein said

computer program code includes instructions for performing the method of claim 24

(see col.14, lines 22-25).

As per **claims 36 and 41**, which respectively depend on claims 33 and 38,

Mukherjee further teaches wherein the processor is further configured to: determine

media components of the multimedia message which need transcoding based at least

on the respective received media characteristics (see col.3, lines 15-22); and transmit at

least a part of the multimedia message to a transcoding server (see Fig.9).

As per **claims 37 and 42**, which respectively depend on claims 33 and 38,

Mukherjee further teaches wherein the processor is further configured to: transcode a

media component of the multimedia message based at least on the actual or assumed

multimedia capabilities of the receiving terminal (see col.3, lines 15-22 & 54-62).

Response to Arguments

4.   Applicant's arguments filed January 19, 2010 have been fully considered but they

are not persuasive. The applicant(s) argue the language "multimedia message" must be

reasonably interpreted. The applicant(s) also argue, neither Mukherjee nor Maes

teaches of "multimedia message".

In response, Mukherjee clearly teaches performing the claimed steps. Although

Mukherjee does not explicitly teach multimedia message, he does teach communicating

"media data" (see abstract). Mukherjee further adds the system, method and format of

the invention is applicable to any scalable encoded bit-stream generated by any

technique. Therefore, it would have been obvious to a person of ordinary skill in the art

at the time the invention was made to implement any format of message (i.e. video,

audio, multimedia and so on) because such data does not functionally relate to the

steps in the method claimed and because the subjective interpretation of the data does

not patentably distinguish the claimed invention. For these reasons, the independent

claims remain rejected.

Conclusion

5.   For the reasons above, claims 1-21, 24, 27, 30, 33, 36-38, 41, 42, and 48 have

been rejected and remain pending.

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

7.　　　Any inquiry concerning this communication or earlier communications from the

examiner should be directed to MICHAEL Y. WON whose telephone number is

(571)272-3993. The examiner can normally be reached on M-Th: 9AM-7PM.

　　　If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

　　　Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Won/

Primary Examiner

AU 2455

March 22, 2010